

### **REMARKS/ARGUMENTS**

The Applicants originally submitted Claims 1-20 in the application. In previous responses, the Applicants amended Claims 1, 5-6, 8, 21 and 24, cancelled Claims 15-20 without prejudice or disclaimer and added new Claims 21-26. In the present response, the Applicants have amended Claims 1, 6, 21, 25 and 26. Support for the amendment can be found, for example, in paragraphs 11 and 22 of the original specification. Claims 1-14 and 21-26 are currently pending in the application.

#### **I. Rejection of Claims 1-5, 7-12, 21 and 24-26 under 35 U.S.C. §102**

The Examiner has rejected Claims 1-5, 7-12, 21 and 24-26 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,577,069 to Lau, *et al.* The Applicants respectfully disagree in view of the present amendment and the below arguments.

Lau relates to out-of-band communication in local-area networks. (*See* column 1, lines 8-10.) Lau does not disclose, however, replacing at least one of a plurality of symbols with a non-Idle symbol to form a modified Interpacket gap, such that the **presence** of the non-Idle symbol **indicates a logic one or a logic zero** of a message. (*See* amended Claims 1 and 21.) On the contrary, Lau discloses using non-Idle symbols to convey information based on the type of non-Idle symbols used. (*See* column 13, lines 7-17.) Thus, Lau fails to teach each limitation of amended independent Claims 1 and 21.

Additionally, regarding independent Claim 8, the Examiner relies on columns 6 and 10 of Lau to disclose a message encoded in an information-carrying portion of a packet by adding at least one non-standard symbol. (*See* Examiner's Final Rejection, page 5.) Columns 6 and 10 of Lau,

however, are related to replacing Idle symbols in inter-frame gaps. These inter-frame gaps differ from the information-carrying portion of Claim 8 which includes at least 16 information bytes encoded in standard symbols between a start-of-packet delimiter and an end-of-packet delimiter. (See Figures 1 and 4 of Lau.) Thus, Lau as applied fails to teach each limitation of independent Claim 8.

Therefore, Lau does not disclose each and every element of independent Claims 1, 8 and 21 and Claims dependent thereon. As such, Lau does not anticipate Claims Claims 1-5, 7-12, 21 and 24-26. Accordingly, the Applicants respectfully request the Examiner to withdraw the §102 rejection with respect to Claims 1-5, 7-12, 21 and 24-26 and allow issuance thereof.

## **II. Rejection of Claims 6, 13-14 and 22-23 under 35 U.S.C. §103**

The Examiner has rejected Claims 6, 13-14 and 22-23 under 35 U.S.C. §103(a) as being unpatentable over Lau in view of: U.S. Patent Application Publication No. 2003/0137975 to Song, *et al* for Claims 6, 13-14 and U.S. Patent Application Publication No. 2002/0061012 to Thi, *et al*. for Claims 22-23. The Applicants respectfully disagree.

As asserted above, the Lau does not anticipate independent Claims 1, 8 and 21. Since Song and Thi have not been cited to address features of Claims 1, 8 and 21, Claims 6, 13-14 and 22-23 are patentable over the above references as applied by the Office Action, at least, by their dependence on Claims 1, 8 and 21, respectively.

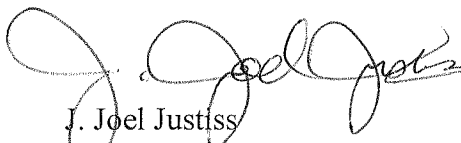
### **III. Conclusion**

In view of the foregoing amendment and remarks, the Applicants now see all of the Claims currently pending in this application to be in condition for allowance and therefore earnestly solicit a Notice of Allowance for Claims 1-14 and 21-26.

The Applicants request the Examiner to telephone the undersigned attorney of record at (972) 480-8800 if such would further or expedite the prosecution of the present application. The Commissioner is hereby authorized to charge any fees, credits or overpayments to Deposit Account 08-2395.

Respectfully submitted,

**HITT GAINES, P.C.**



J. Joel Justiss  
Registration No. 48,981

Dated: December 30, 2008

P.O. Box 832570  
Richardson, Texas 75083  
(972) 480-8800